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EXAMINER

NELSON, FREDA ANN

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3628

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/743,204	Applicant(s) JANSSEN, CRAIG N.	
	Examiner FREDA A. NELSON	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-24 and 26-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-24 and 26-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The amendment received on April 14, 2008 is acknowledged and entered. Claims 1, 3, 7, 10-12, 15-17, 19, 21-24, 26-27, 29 and 32 have been amended. Claims 2 and 25 have been cancelled. Claims 33-34 have been added. Claims 1, 3-24, and 26-34 are currently pending.

Response to Amendment and Arguments

Applicant's arguments filed April 14, 2008 have been fully considered but they are not persuasive.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

In response to Applicant's argument that the office action is silent regarding claim 12, the Examiner asserts that claim 12 is similar to claim 32 and was inadvertently left out of the grouping, but was rejected for the same reason as claim 32.

In response to applicant's argument that Christianitytoday.com provides no indication of "estimating an amount of donations given to the church during a future time period," where the estimated amount of donations is "based at least in part on the estimated future growth in the number of people attending the church services" ; and Adams simply recites a system for projecting "receipts of a public facility," such as gate

receipts or future ticket and vending sales wherein none of this applies to church donations. The Examiner asserts that Christianitytoday.com discloses a new sanctuary should seat twice the number of people in your current building (Page 1) {Which the Examiner interprets as estimating growth will be at least twice the number of current people attending church services} ; a formula used to compute the size of a church complex; and spreading the calculations throughout the sanctuary, meeting rooms, nurseries, and educational space of your church complex (page 2); and form a committee to decide how much money can be raised for the building project and bring those recommendations to the finance committee, which then can put together a financial package that takes into account current and projected debt levels, income from fundraising efforts and loan packages, and makes its own recommendation about the church's financial limitations (Page 4). Churchgrowthsoftware.com. discloses software for calculating overall congregation growth and donation trends (page 17 of manual).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made would have recognized that the results would be predictable when modifying the invention of Adams et al. to include the features of Christianitytoday.com and Churchgrowthsoftware.com in order to give reasonable and reliable construction financing quotes based on forecasted receipts from the growth trend study and giving analysis.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 7, 12, 17, 27, and 32-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 7, 17, and 27, it is not clear what the applicant is claiming by the claim language “wherein the estimated amount of donations is determined based at least in part on completion of one or more of the phases” because the specification of the instant application uses both “is should be complete” in paragraph [0087]).

8.

[0087] In the illustrated example, the screenshot 900 includes a campaign identification portion 902, which identifies the various phases of the construction, the year of the fund-raising campaign for each phase, and ***the year when each phase is should be complete***. The screenshot 900 also includes a debt service portion 904, which identifies the costs needed for the construction phases, the expected donations that the church may receive, and the amount of borrowing and debt that the church may expect to pay for each construction phase.

Claims 12 and 32-33 recite the limitations “newer member” and “older members” in lines 2-3. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-2, 4-14, and 34 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-2, 4-14, and 34 are directed to a series of steps. In order for a series of steps to be considered a proper process under § 101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). Thus, to qualify as patent eligible, these processes must positively recite the other statutory class to which it is tied (e.g., by identifying the apparatus that accomplishes the method steps), or positively recite the subject matter that is being transformed (e.g., by identifying the product or material that is changed to a different state). Claims 1-2, 4-14, and 34 identify neither the apparatus performing the recited steps nor any transformation of underlying materials, and accordingly are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 8, 13-16, 18, 20-22, 24, 26-28 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,154,730), in view of

**Christianitytoday.com, in further view of Hertzelszabadi (US PG Pub.
2003/0233267), still in further view of Churchgrowthsoftware.com.**

As per claims 1, 8, 13-16, 18, 20-21, 28, and 30-31, Adams et al. disclose a method, comprising:

identifying a plurality of facilities in a complex, each facility associated with a construction project (col. 1, lines 41-44; col. 3, lines 38-57);

determining a potential revenue associated with at least one of the facilities (abstract; col. 1, lines 46-51);

determining a cost associated with at least one of the facilities (col. 1, lines 46-51).

Adams et al. does not expressly disclose wherein the complex comprises a church and at least one of the facilities comprises an auditorium of the church; and

generating a schedule of the construction projects using the identified potential revenue and the identified cost; and

wherein determining, the potential revenue comprises: estimating future growth in a number of people attending church services at the church; and

estimating an amount of donations given to the church during a future time period wherein the estimated amount of donations is based at least in part on the estimated future growth in the number of people attending the church services.

Christianitytoday.com discloses a new sanctuary should seat twice the number of people in your current building (Page 1) {Which the Examiner interprets as estimating growth will be at least twice the number of current people attending church services} ; a

formula used to compute the size of a church complex; and spreading the calculations throughout the sanctuary, meeting rooms, nurseries, and educational space of your church complex (page 2); and form a committee to decide how much money can be raised for the building project and bring those recommendations to the finance committee, which then can put together a financial package that takes into account current and projected debt levels, income from fundraising efforts and loan packages, and makes its own recommendation about the church's financial limitations (Page 4).

Hertzel-Szabadi discloses that the project structure with phases (work breakdown structure elements) and the necessary activities (tasks) have to be defined and costs and potential revenues have to be calculated, timelines to be scheduled and probably personnel and other resources soft-booked, in order to be able to do reasonable and reliable quotations that can be fulfilled in case they are accepted by the customer (paragraph [0003]); and the planning of structures, costs, revenues, resources, timeliness etc. can and will normally be refined and detailed during the life cycle of the project 105 (paragraph [0028]).

Churchgrowthsoftware.com. discloses software for calculating overall congregation growth and donation trends (page 17 of manual).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made would have recognized that the results would be predictable when modifying the invention of Adams et al. to include the features of Hertzel-Szabadi, Christianitytoday.com, and Churchgrowthsoftware.com in order to

give reasonable and reliable construction financing quotes based on forecasted receipts from the growth trend study and giving analysis.

As per claims 3-4 and 26-27, Adams et al. do not expressly disclose does not explicitly disclose the method of Claim 1, wherein determining the cost associated with at least one of the facilities-comprises: identifying a size of at least one of the facilities based on the estimated future growth in attendance predicted number of people; determining a cost of at least one of the construction projects based on the identified size; and wherein identifying the size of the at least one facility comprises identifying a plurality of sizes for the at least one facility ..

However, Christianitytoday.com discloses a new sanctuary should seat twice the number of people in your current building (Page 1); a formula used to compute the size of a church complex; and spreading the calculations throughout the sanctuary, meeting rooms, nurseries, and educational space of your church complex (page 2); and form a committee to decide how much money can be raised for the building project and bring those recommendations to the finance committee, which then can put together a financial package that takes into account current and projected debt levels, income from fundraising efforts and loan packages, and makes its own recommendation about the church's financial limitations (Page 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the features of Hertz-Szabadi and Christianitytoday.com in order to determine how large a new facility should be built and the funds needed for the construction.

As per claim 5, Adams et al. disclose the method of claim 1, wherein identifying the plurality of facilities comprises receiving an identification the facilities from a user (abstract).

As per claim 9, Adams et al. disclose the method of claim 8, further comprising: identifying an amount borrowing needed pay for the construction projects (col. 2, lines 51-56); and identifying an amount of debt to be paid off each year (col. 3, lines 26- 36).

As per claim 22 and 24, Adams et al. disclose a system, comprising:
memory operable to store information identifying a plurality of facilities in a complex, each facility associated with a construction project (col. 1, lines 41-44; col. 3, lines 38-57); and an analysis module operable to:
determining a potential revenue associated with at least one of the facilities (col. 1, lines 41-44; col. 3, lines 38-57);
determining a cost associated with at least one of the facilities (col. 3, lines 2-19).

Adams et al. is silent about a computer program embodied on a computer readable medium, however, this feature is deemed to be inherent in the Adams et al. invention in order to run the STAFI system.

Adams et al. does not expressly disclose wherein the complex comprises a church and at least one of the facilities comprises an auditorium of the church; and

generating a schedule of the construction projects using the identified potential revenue and the identified cost; and

wherein an analysis module is operable to determine the potential revenue by: estimating future growth in a number of people attending church services at the church; and

estimating an amount of donations given to the church during a future time period, wherein the estimated amount of donations is based at least in part on the estimated future growth in the number of people attending the church services.

Christianitytoday.com discloses a new sanctuary should seat twice the number of people in your current building (Page 1); a formula used to compute the size of a church complex; and spreading the calculations throughout the sanctuary, meeting rooms, nurseries, and educational space of your church complex (page 2); and form a committee to decide how much money can be raised for the building project and bring those recommendations to the finance committee, which then can put together a financial package that takes into account current and projected debt levels, income from fundraising efforts and loan packages, and makes its own recommendation about the church's financial limitations (Page 4).

Hertzel-Szabadi discloses that the project structure with phases (work breakdown structure elements) and the necessary activities (tasks) have to be defined and costs and potential revenues have to be calculated, timelines to be scheduled and probably personnel and other resources soft-booked, in order to be able to do reasonable and reliable quotations that can be fulfilled in case they are accepted by the

customer (paragraph [0003]); and the planning of structures, costs, revenues, resources, timeliness etc. can and will normally be refined and detailed during the life cycle of the project 105 (paragraph [0028]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the features of Hertz-Szabadi, and Christianitytoday.com in order to give reasonable and reliable quotations (see Hertz-Szabadi paragraphs [0003],[0017],[0028]).

As per claim 34, Adams et al. do not expressly disclose estimating the future growth in the number of people attending the church services comprises: limiting a future growth prediction to no more than a specified percentage during a portion of one or more of the phases; and enforcing a different maximum growth rate for the future growth prediction during other times.

Churchgrowthsoftware.com discloses custom report generation (page 1). Churchgrowthsoftware.com further discloses software for calculating overall congregation growth and donation trends (page 17 of manual); and software is licensed by the number of individual names stored in the CGS database (page 3) {which the Examiner interprets as limiting the future growth potential to no more than the number of names that can be stored }. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the features of Hertz-Szabadi, Christianitytoday.com, and

Churchgrowthsoftware.com in order to give reasonable and reliable quotations based on donations forecasted from growth trend studies and giving analyses performed.

4. Claims 6-7, 10, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,154,730), in view of Christianitytoday.com, still in further view of Hertzelszabadi (US PG Pub. 2003/0233267), still in further view of Elliot (US 6,446,053).

As per claims 6-7 and 17, Adams et al. do not disclose the method of claim 1, wherein generating the schedule comprises, for each construction project, receiving from a user an identification of one of a plurality of phases during which the construction project would occur.

However, Elliot discloses that the user computer organizes these time estimates according to the proper order in a construction project, for example, framing (Phase 5) must be completed before other phases can commence, however, some of the following phases can commence simultaneously, such as plumbing and framing (col. 10, lines 34-39; TABLE 1); and after Phase 1 is complete, the application guides the user through the next phase, Phase 2: Begin Site Work in 120 and 122 and in Step 1: Excavation, the application retrieves the square footage of the lot from memory, accesses the regional database, determines average labor rate for excavation subcontractors in that region, determines equipment costs for excavation in that region, and then calculates an estimate for the excavation step, wherein the equipment costs may include rental, fuel, and insurance costs (col. 8, lines 32-44).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the feature of Elliot in order to provide the user with a cost associated with a phase of the construction.

As per claim 10, Adams et al. do not disclose receiving alterations of data used from a user to generate the schedule; and showing the user real time how the changes in the altered data affect the schedule.

However, Elliot discloses that if the user is not satisfied with the cost of the installation, the user can undo the operation and simulate another installation; and if the user is satisfied with the installation, the user computer moves on to the next step, updating and storing the revised graphical model and cost estimate model (col. 6, lines 38-48); and if any feature of the proposal is unsatisfactory, the user can revise the proposal at 126, wherein the user selects the phases and steps he wishes to edit at 128 and edits the proposal at those points (col. 10, lines 40-46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the features of Gordon, Hertzelszabadi, Christianitytoday.com, and Elliot in order to provide the user with the ability to make changes to the construction plans.

5. Claims 11, 19, 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,154,730), in view of Christianitytoday.com, in further view of Hertzelszabadi (US PG Pub. 2003/0233267); still in further view

of Gordon (US PG Pub. 2002/0099725); still in further view of Wakelam (US 6,859,768).

As per claims 11, 19, 23, and 29, Adams et al. do not disclose receiving a constraint on data used to generate the schedule from a user; and showing the user in real time how at least one change in the altered data and constraint affects the schedule.

However, Gordon discloses the system 10 may further include at least one interactive module 22 that allows the master customer to fill out a profile, on- line, regarding demographic information, financial constraints, and other personnel preferences, such as overall style preference, color preference and others. Based on the input information, the interactive module provides a list of suitable choices, selections or suggestions.

Wakelam et al. disclose that the Interview massing element 201 gathers some basic information regarding the project and allows the user to change some high-level parameters of the building design and then controls the assembly hierarchy to produce a full-scale, three-dimensional model of the building, complete with drawings, specifications cost estimation, and schedule (col. 13, lines 34-50; FIG. 1-1a).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the features of Wakelam et al., Hertzelszabadi, Christianitytoday.com, Elliot, and Gordon in order to provide the user to use what-if scenarios to get a variety of estimates.

6. Claims 12, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams et al. (US 6,154,730), in view of Christianitytoday.com, in further view of Hertz-Szabadi (US PG Pub. 2003/0233267), still in further view of Churchgrowthsoftware.com; and still in further view of “How Much Can They Give.”

As per claims 12, 32, and 33, Adams et al. does not disclose the estimated amount of donations is determined using a factor defining, a rate at which newer members of the church generally donate compared to older members of the church.

However, Churchgrowthsoftware.com. discloses software for calculating overall congregation growth and donation trends (page 17 of manual).

“How much Can They Give” discloses churches with older members often raise more funds for a special project because seniors have disposable income (page 2, 3rd ¶).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Adams et al. to include the features of Christianitytoday.com, Hertz-Szabadi, Churchgrowthsoftware.com; and “How Much Can They Give” in order to provide and analysis of giving trends amongst members for feasibility studies.

Examiner's Note:

Examiner has cited particular pages, columns, paragraphs and/or line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freda A. Nelson whose telephone number is (571) 272-7076. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. A. N./
Examiner, Art Unit 3628

/JOHN W HAYES/
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